

OPEN MEETING ITEM



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COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



Executive Director
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ARIZONA CORPORATION COMMISSION

2010 APR 12 P 3:01

AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

DATE: APRIL 12, 2010

DOCKET NOS.: W-01445A-05-0700 AND WS-01775A-05-0700

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

ARIZONA WATER COMPANY/ FRANCISCO GRANDE UTILITY COMPANY
(EXTENDING TIME DEADLINE
CONTAINED IN DECISION NO. 68654)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

APRIL 21, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

APRIL 27, 2010 AND APRIL 28, 2010

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

APR 12 2010



ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE JOINT APPLICATION
9 OF: (1) FRANCISCO GRANDE UTILITY
10 COMPANY, AN ARIZONA CORPORATION, TO
11 TRANSFER A PORTION OF ITS EXISTING
12 CERTIFICATE OF CONVENIENCE AND
13 NECESSITY TO ARIZONA WATER COMPANY,
14 AN ARIZONA CORPORATION; (2) ARIZONA
15 WATER COMPANY TO INCLUDE
16 CERTIFICATED AREA TO BE TRANSFERRED
17 BY FRANCISCO GRANDE UTILITY COMPANY
18 IN ARIZONA WATER COMPANY'S CASA
19 GRANDE CERTIFICATE OF CONVENIENCE
20 AND NECESSITY.

DOCKET NO. W-01445A-05-0700
DOCKET NO. WS-01775A-05-0700

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 68654

14 Open Meeting
15 April 27 and 28, 2010
16 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 * * * * *

18 Having considered the entire record herein and being fully advised in the premises, the
19 Commission finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. On October 4, 2005, Francisco Grande Utility Company ("Francisco") and Arizona
23 Water Company ("AWC") ("Joint Applicants") jointly filed with the Arizona Corporation
24 Commission ("Commission") to transfer a portion of Francisco's Certificate of Convenience and
25 Necessity ("CC&N") to AWC and for AWC to include the same area in AWC's Casa Grande CC&N.

26 2. On April 12, 2006, the Commission issued Decision No. 68654 approving the joint
27 application of AWC and Francisco. Pursuant to Commission Decision No. 68654 (April 12, 2006),
28 AWC was required to file, among other things, the following compliance items:

- Copies of the Arizona Department of Environmental Quality's Approval to Construct ("ATC") for facilities needed to serve the requested transfer areas within two years of the effective date of the Decision.
- A Notice of filing indicating AWC had submitted for Staff's review and approval, a copy of the fully executed main extension agreements ("MXAs") for water facilities for the requested transfer areas within two years of the effective date of the Decision.
- A copy of the developer's Certificate of Assured Water Supply ("CAWS") for the requested transfer areas where applicable or when required by statute, within two years of the effective date of the Decision.

3. On March 10, 2008, AWC filed a request for additional time, until April 12, 2010, to file the above compliance items.

4. On August 6, 2008, the Commission issued Decision No. 70450, approving AWC's request for additional time, until April 12, 2010, to comply with Decision No. 68654.

5. On November 23, 2009, AWC filed a request for determination of compliance with Decision No. 68654; or in the alternative, a request for additional time to comply with Decision No. 68654 ("Request"). In its Request, AWC states that the remaining compliance items are under the control of the developer; the developer has prepared a regional groundwater model for AWC's entire Pinal Valley Water Service Area to demonstrate the physical availability of groundwater in the transfer area; an application for a Physical Availability Demonstration ("PAD") was filed with the Arizona Department of Water Resources ("ADWR") in 2007, but has not yet been approved; the recession has significantly slowed the housing market; and because the PAD is a precursor to receiving a CAWS and no MXAs may be entered into without a CAWs, AWC needs more time to comply. AWC's Request seeks a determination that it has complied with the requirements of Decision No. 68654, or in the alternative, that AWC be granted an extension of time, until April 12, 2012, to comply with the Decision.

6. On January 19, 2010, AWC filed an amendment to the Request revising the map it submitted for the transfer area; providing a copy of the approved ADWR PAD¹ for the transfer area; withdrawing a previously submitted MXA the Company erroneously believed included the transfer area; submitting a copy of the ATC application for the facilities needed in the transfer area; and withdrawing its request for a determination of compliance with Decision No. 68654. AWC further

¹ ADWR approved the PAD application for the transfer area on December 24, 2009.

requested to extend the compliance deadlines contained in Decision No. 68654, until April 12, 2012, for the ATC, MXAs, and CAWS related to the transfer area.

7. On March 5, 2010, the Commission's Utilities Division ("Staff") filed a memorandum stating that Staff does not object to AWC's request for an extension of time, until April 12, 2012, to file the ATC, MXA, and CAWS, as required in Decision No. 68654. Staff further stated that it had contacted AWC on February 22, 2010, and AWC confirmed that the outstanding compliance items are under the control of the developer rather than AWC and the length of time requested to meet compliance is due to the continuing effects of the economic recession. Staff states it does not object to AWC's request for an extension of time to comply, but that Staff also recommends that no additional extensions of time be granted in this matter.

8. AWC has filed a timely request for an extension of time to comply with Decision No. 68654. Based on AWC's statements regarding the negative effects the economic recession has had on the housing market, the developer's continuing efforts to move forward in the transfer area by completing a regional groundwater model for the Pinal Valley Water Service Area, and obtaining a PAD, we find it is reasonable to grant AWC an extension of time to comply with Decision No. 68654, until April 12, 2012, to file the ATC, MXA, and CAWS for the transfer area.

CONCLUSIONS OF LAW

1. AWC and Francisco are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

2. The Commission has jurisdiction over AWC, Francisco and the subject matter described herein.

3. AWC's request to for an extension of time, until April 12, 2012, to comply with the requirements outlined in Decision No. 68654, is reasonable and should be granted.

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ORDER

IT IS THEREFORE ORDERED that Francisco Grande Utility Company and Arizona Water Company are hereby granted an extension of time to comply with Commission Decision No. 68654, until April 12, 2012, to file the Arizona Department of Environmental Quality's Approval to Construct for the facilities needed to serve the transfer areas, a notice of filing indicating Arizona Water Company has submitted for Staff's review and approval, a copy of a fully executed main extension agreement for the water facilities in the transfer areas, and a copy of the developer's Certificate of Assured Water Supply for the transfer area where applicable or when required by statute.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

YBK:db

1 SERVICE LIST FOR:

FRANCISCO GRANDE UTILITY COMPANY AND
ARIZONA WATER COMPANY

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W-01445A-05-0700 AND WS-01775A-05-0700

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